



General Assembly

January Session, 2011

***Raised Bill No. 6474***

LCO No. 3797

\*03797\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING THE RESOLUTION OF LIENS IN WORKERS' COMPENSATION CASES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 31-293 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2011*):

4 (a) When any injury for which compensation is payable under the  
5 provisions of this chapter has been sustained under circumstances  
6 creating in a person other than an employer who has complied with  
7 the requirements of subsection (b) of section 31-284, a legal liability to  
8 pay damages for the injury, the injured employee may claim  
9 compensation under the provisions of this chapter, but the payment or  
10 award of compensation shall not affect the claim or right of action of  
11 the injured employee against such person, but the injured employee  
12 may proceed at law against such person to recover damages for the  
13 injury; and any employer or the custodian of the Second Injury Fund,  
14 having paid, or having become obligated to pay, compensation under  
15 the provisions of this chapter may bring an action against such person  
16 to recover any amount that he has paid or has become obligated to pay

17 as compensation to the injured employee. If the employee, the  
18 employer or the custodian of the Second Injury Fund brings an action  
19 against such person, he shall immediately notify the others, in writing,  
20 by personal presentation or by registered or certified mail, of the action  
21 and of the name of the court to which the writ is returnable, and the  
22 others may join as parties plaintiff in the action within thirty days after  
23 such notification, and, if the others fail to join as parties plaintiff, their  
24 right of action against such person shall abate. In any case in which an  
25 employee brings an action against a party other than an employer who  
26 failed to comply with the requirements of subsection (b) of section 31-  
27 284, in accordance with the provisions of this section, and the  
28 employer is a party defendant in the action, the employer may join as a  
29 party plaintiff in the action. The bringing of any action against an  
30 employer shall not constitute notice to the employer within the  
31 meaning of this section. If the employer and the employee join as  
32 parties plaintiff in the action and any damages are recovered, the  
33 damages shall be so apportioned that the claim of the employer, as  
34 defined in this section, shall take precedence over that of the injured  
35 employee in the proceeds of the recovery, after the deduction of  
36 reasonable and necessary expenditures, including attorneys' fees,  
37 incurred by the employee in effecting the recovery. If the action has  
38 been brought by the employee, the claim of the employer shall be  
39 reduced by one-third of the amount of the benefits to be reimbursed to  
40 the employer, unless otherwise agreed upon by the parties, which  
41 reduction shall inure solely to the benefit of the employee, except that  
42 such reduction shall not apply if the reimbursement is to the state of  
43 Connecticut or a political subdivision of the state including a local  
44 public agency, as the employer, or the custodian of the Second Injury  
45 Fund. The rendition of a judgment in favor of the employee or the  
46 employer against the party shall not terminate the employer's  
47 obligation to make further compensation which the commissioner  
48 thereafter deems payable to the injured employee. If the damages, after  
49 deducting the employee's expenses as provided in this subsection, are  
50 more than sufficient to reimburse the employer, damages shall be

51 assessed in his favor in a sum sufficient to reimburse him for his claim,  
52 and the excess shall be assessed in favor of the injured employee. No  
53 compromise with the person by either the employer or the employee  
54 shall be binding upon or affect the rights of the other, unless assented  
55 to by him. For the purposes of this section, the claim of the employer  
56 shall consist of (1) the amount of any compensation which he has paid  
57 on account of the injury which is the subject of the suit and (2) an  
58 amount equal to the present worth of any probable future payments  
59 which he has by award become obligated to pay on account of the  
60 injury. The word "compensation", as used in this section, shall be  
61 construed to include incapacity payments to an injured employee,  
62 payments to the dependents of a deceased employee, sums paid out  
63 for surgical, medical and hospital services to an injured employee, the  
64 burial fee provided by subdivision (1) of subsection (a) of section 31-  
65 306, payments made under the provisions of sections 31-312 and 31-  
66 313, and payments made under the provisions of section 31-284b in the  
67 case of an action brought under this section by the employer or an  
68 action brought under this section by the employee in which the  
69 employee has alleged and been awarded such payments as damages.  
70 Each employee who brings an action against a party in accordance  
71 with the provisions of this subsection shall include in his complaint (A)  
72 the amount of any compensation paid by the employer or the Second  
73 Injury Fund on account of the injury which is the subject of the suit  
74 and (B) the amount equal to the present worth of any probable future  
75 payments which the employer or the Second Injury Fund has, by  
76 award, become obligated to pay on account of the injury.  
77 Notwithstanding the provisions of this subsection, when any injury for  
78 which compensation is payable under the provisions of this chapter  
79 has been sustained under circumstances creating in a person other  
80 than an employer who has complied with the requirements of  
81 subsection (b) of section 31-284, a legal liability to pay damages for the  
82 injury and the injured employee has received compensation for the  
83 injury from such employer, its workers' compensation insurance  
84 carrier or the Second Injury Fund pursuant to the provisions of this

85 chapter, the employer, insurance carrier or Second Injury Fund shall  
86 have a lien upon any judgment received by the employee against the  
87 party or any settlement received by the employee from the party,  
88 provided the employer, insurance carrier or Second Injury Fund shall  
89 give written notice of the lien to the party prior to such judgment or  
90 settlement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2011	31-293(a)

***Statement of Purpose:***

To revise the amount of reimbursement received by an employer that has paid workers' compensation benefits to an injured employee when the employee brings an action against a third-party tortfeasor and recovers damages.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*